

**Illinois Department of Revenue
Regulations**

Title 86 Part 200 Section 200.135 Informal Review

TITLE 86: REVENUE

**PART 200
PRACTICE AND PROCEDURE FOR HEARINGS BEFORE
THE ILLINOIS DEPARTMENT OF REVENUE**

Section 200.135 Informal Review

- a) The Department may designate an impartial employee, in accordance with the provisions of Section 39b20.1 of the Civil Administrative Code [20 ILCS 2505/39b20.1], who has authority and knowledge to recommend an appropriate conclusion of the matter involving an assessment or proposed liability prior to hearing, and to review adjustments recommended by examiners and auditors. The informal review process affords non-attorneys, such as certified public accountants and corporate officers, an opportunity to resolve disagreements with the Department after a liability has been proposed or assessed but before commencement of the formal administrative hearing process in which the taxpayer is required to be represented by a licensed attorney or to proceed pro se. The Department shall conduct such a review process only if requested by a taxpayer or his representative within 30 days after the filing of a timely and sufficient protest. A request for informal review shall include a list of all supportive documentation to be presented at the review conference.
- b) A taxpayer may be represented by any person of his choice during the informal review process. The taxpayer's chosen representative at this point need not be an attorney. Any Power of Attorney filed by a non-attorney shall be sufficient for participation in the informal review provided by this Section and for no other proceeding or part of a proceeding during any phase in the administrative hearing process.
- c) The Department shall designate an employee, other than the litigator authorized to represent the Department at the hearing, to conduct the informal review. Administrative Law Judges, regardless of whether they are assigned to a particular case, shall in no instance be designated as an informal reviewer under this Section.
- d) The employee designated to conduct the informal review conference shall review the adjustments recommended by the examiner or auditor to determine whether adequate grounds for the assessment of the liability exist given the factual information provided by the taxpayer prior to, and at the time of, the conference, and the applicable statutory and regulatory law for the period of the assessment. As a result of the information provided at such conference, the person designated to conduct the informal review and the taxpayer may mutually agree to refer the case to the Audit Bureau for reaudit to resolve factual issues. At the conclusion of the conference and/or reaudit, the employee may recommend, with regard to all or some of the issues:

- 1) That the issues be resolved in favor of the taxpayer, if it is determined that the law does not adequately support the assessed or proposed liability;
 - 2) That the issues be fully resolved by administrative hearing, if it is determined that there are insufficient facts to conclusively determine that the taxpayer has overcome the premises upon which the proposed or assessed liability is based;
or
 - 3) That the issues be resolved in favor of the taxpayer, having ascertained that the facts presented conclusively overcome the factual premise upon which the liability is based.
- e) A recommendation that the issues be resolved by administrative hearing is not a final decision of the Department within the meaning of Section 10-50 of the Illinois Administrative Procedure Act [5 ILCS 100/10-50] and, therefore, may not be appealed.
- f) Documents provided to the employee designated to conduct the informal review process may be made part of the administrative hearing record in the same manner as other items proffered by either party as evidence to be introduced into the record.
- g) Offers of settlement must be tendered in accordance with Section 200.137 of this Part, and such offers will not be considered by the employee designated to conduct the informal review conference. Tender of an offer of settlement to the informal reviewer will result in the case being referred to the assigned litigator or to the litigation supervisor for appropriate evaluation and disposition of the offer. Nothing contained herein shall be construed to preclude the taxpayer or his/her representative from directly discussing the offer of settlement with the assigned litigator or litigation supervisor during the Informal Review period. In any instance where an offer of settlement is made during the informal review process, the case shall remain in that status, regardless of the person evaluating the offer, until such time as the Department accepts or rejects the terms of settlement being proposed. However, the time limitations for consideration of any offer within this term shall be the same as those set forth in Section 200.137(f) of this Part.
- h) In all cases where a timely request for informal review has been made, the initial automatic status conference which is set under the provisions of Section 200.140 of this Part shall instead serve as the date for the commencement of the informal review conference. The reviewer (or litigator in situations in which a settlement offer has been made) for any particular case, within 90 days after the commencement of the informal review process, shall make a written recommendation to the Director, or his designee, that the matter be returned to the hearing calendar, settled or otherwise disposed of according to the provisions of this Part. The time limitation herein set forth shall be extended an additional 90 days upon application by any party, to the presiding Administrative Law Judge, that such additional time is necessary to make an informed decision. Thereafter, extensions of the informal review period shall be made only upon application to the presiding Administrative Law Judge and a showing that the Department has failed to fulfill its responsibilities to make a decision in response to a taxpayer's application for informal review.

(Source: Amended at 20 Ill. Reg. 888, effective January 1, 1996)

